

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

CHRISTOPHER COLEMAN	)	
	)	Case No. 08 C 1027
Plaintiff,	)	
	)	Judge Gettleman
v.	)	
	)	Magistrate Judge Valdez
P.O. FRANO, P.O. LAURETO,	)	
P.O. FICO, and P.O. NAPOLI, individually	)	
	)	Jury Demand
Defendant.	)	

**NOTICE OF FILING AND CERTIFICATE OF SERVICE**

TO: Ronak Patel  
Grefory E. Kulis & Associates  
Attorneys for Plaintiff  
30 N. LaSalle St., Suite 2140  
Chicago, IL 60602

**PLEASE TAKE NOTICE** that on August 25, 2008, I have caused to be filed with the Clerk of the United States District Court for the Northern District of Illinois, Eastern Division, **DEFENDANTS FRANO, LAURETO, FICO AND NAPOLI'S ANSWER, AFFIRMATIVE DEFENSES, AND JURY DEMAND TO PLAINTIFF'S SECOND AMENDED COMPLAINT**, a copy of which is herewith served upon you.

I hereby certify that I have caused a true and correct copy of the above and foregoing **DEFENDANTS FRANO, LAURETO, FICO AND NAPOLI'S ANSWER, AFFIRMATIVE DEFENSES, AND JURY DEMAND TO PLAINTIFF'S SECOND AMENDED COMPLAINT**, to be sent via e-filing to the persons named in the foregoing Notice, "Filing Users" pursuant to Case Management/Electronic Case Files, on August 25, 2008, in accordance with the rules on electronic filing of documents.

Respectfully submitted,

/s/ Gail Reich  
GAIL REICH  
Assistant Corporation Counsel

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**DEFENDANTS' ANSWER TO PLAINTIFF'S FIRST AMENDED COMPLAINT**

Defendants, Chicago Police Officers, John Frano, Steven Laureto, Michael Napoli, and Vincent Fico, (hereinafter "Defendant Officers"), by their attorney, Gail Reich, Assistant Corporation Counsel, hereby submit their Answer, Affirmative Defenses, and Jury Demand to Plaintiff's Complaint:

**COUNT I - EXCESSIVE FORCE**

This action is brought pursuant to the Laws of the United States Constitution, specifically 42 U.S.C. §1983 and 1988, and the laws of the State of Illinois, to redress deprivations of the Civil Rights of the Plaintiff and accomplished by acts and/or omissions of the Defendant committed under color of law.

**ANSWER:** Defendant Officers admit that this action is brought pursuant to 42 U.S.C. §1983 and §1988, and that at the time alleged in the complaint, they were acting under color of law. Defendant Officers deny the remaining allegations contained in this paragraph and deny any wrongful or illegal conduct.

1) Jurisdiction is based on Title 28 U.S.C. §1343 and §1331 and supplemental Jurisdiction of the State of Illinois.

**ANSWER:** Defendant Officers admit that this Court has jurisdiction over this matter, but deny that this court has supplemental jurisdiction, as plaintiff has not made any allegations pursuant to Illinois State law.

2) The Plaintiff, CHRISTOPHER COLEMAN, is an United States citizen and a permanent resident of the State of Illinois.

**ANSWER:** Defendant Officers lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph and therefore those allegations are deemed denied.

3) The Defendants, P.O. FRANO, LAURETO, FICO, and NAPOLI, were at all relevant times a duly appointed officers of the City of Chicago and at all relevant times, were acting within their scope of employment and under color of law.

**ANSWER:** Defendant Officers admit the allegations contained in this paragraph.

4) On June 26, 2007, the Plaintiff, CHRISTOPHER COLEMAN, was sitting outside 157 N. Latrobe in Chicago, Illinois.

**ANSWER:** Defendant Officers admit that on June 26, 2007 at approximately 8:30p.m. plaintiff was at or near the property located at 157 N. Latrobe in Chicago, IL. Defendant Officers deny the remaining allegations contained in this paragraph.

5) The Defendants pulled up on the scene.

**ANSWER:** Defendant Officers Frano and Laureto admit that on June 26, 2007 at approximately 8:30p.m. they approached plaintiff at or near the address of 157 N. Latrobe in

Chicago, IL. Defendant Officers Fico and Napoli admit that shortly thereafter, they arrived in the vicinity of 157 N. Latrobe in Chicago. Defendant Officers deny the remaining allegations contained in this paragraph.

6) Plaintiff CHRISTOPHER COLEMAN was not committing any crime or breaking any laws.

**ANSWER:** Defendant Officers deny the allegations contained in this paragraph.

7) The Defendants jumped on the Plaintiff, handcuffed him and beat him.

**ANSWER:** Defendant Officers deny the allegations contained in this paragraph.

8) Plaintiff CHRISTOPHER COLEMAN was injured.

**ANSWER:** Defendant Officers admit that plaintiff was injured during the course of his arrest.

9) Said use of force was unprovoked, excessive and, unreasonable.

**ANSWER:** Defendant Officers deny the allegations contained in this paragraph.

10) Said actions of the Defendants were intentional willful and wanton.

**ANSWER:** Defendant Officers deny the allegations contained in this paragraph.

11) Said actions of Defendants violated the Plaintiff CHRISTOPHER COLEMAN's Fourth and Fourteenth Amendment Rights of the United States Constitution and were in violation of said rights as protected by 42 U.S.C. § 1983.

**ANSWER:** Defendant Officers deny the allegations contained in this paragraph.

12) As a direct and proximate consequence of said conduct of Defendants, P.O. FRANO, LAURETO, FICO, and NAPOLI; the Plaintiff, CHRISTOPHER COLEMAN, suffered

violations of his constitutional rights, fear, emotional anxiety, fear, pain and suffering and monetary loss and expense.

**ANSWER:** Defendant Officers deny the allegations contained in this paragraph.

**WHEREFORE,** Defendant Officers respectfully request that judgment be entered in their favor and against Plaintiff on Count I, for the costs of defending this suit, and such other relief as the Court deems just and appropriate.

**COUNT II - FALSE ARREST**

1-10) The Plaintiff, CHRISTOPHER COLEMAN, hereby realleges and incorporates his allegations of paragraphs 1-10 of Count I as his respective allegations of paragraphs 1-10 of Count II as though fully set forth herein.

**ANSWER:** Defendant Officers restate their answers to paragraphs 1-10 as though fully set forth herein.

11) The Plaintiff was arrested to cover up the Defendants' illegal acts.

**ANSWER:** Defendant Officers deny the allegations contained in this paragraph.

12) The Plaintiff was not committing a crime.

**ANSWER:** Defendant Officers deny the allegations contained in this paragraph.

13) Plaintiff CHRISTOPHER COLEMAN was arrested and charged.

**ANSWER:** Defendant Officers admit that plaintiff was arrested and charged with violating 720 ILCS 570.0/402-C, 720 ILCS 550.0/4-C, and MCC§ 2-84-300.

14) These charges were false.

**ANSWER:** Defendant Officers deny the allegations contained in this paragraph.

15) The Defendants did not see Plaintiff CHRISTOPHER COLEMAN committing any crime.

**ANSWER:** Defendant Officers Fico and Napoli admit the allegations contained in this paragraph. Defendant Officers Frano and Laureto deny the allegations contained in this paragraph.

16) The Defendants did not have probable cause to arrest Plaintiff CHRISTOPHER COLEMAN.

**ANSWER:** Defendant Officers deny the allegations contained in this paragraph.

17) Said actions of the Defendants were intentional, willful and wanton.

**ANSWER:** Defendant Officers deny the allegations contained in this paragraph.

18) Said actions of the Defendants violated Plaintiff CHRISTOPHER COLEMAN's Fourth and Fourteenth Amendment Rights of the United States Constitution and were in violation of said rights as protected by 42 U.S.C. § 1983.

**ANSWER:** Defendant Officers deny the allegations contained in this paragraph.

19) As a direct and proximate consequence of said conduct of the Defendants, P.O. FRANO, LAURETO, FICO, and NAPOLI, the Plaintiff, CHRISTOPHER COLEMAN, suffered violations of his constitutional rights, emotional anxiety, fear, pain and suffering and monetary loss and expense.

**ANSWER:** Defendant Officers deny the allegations contained in this paragraph.

**WHEREFORE**, Defendant Officers respectfully request that judgment be entered in their favor and against Plaintiff on Count II, for the costs of defending this suit, and such other relief as the Court deems just and appropriate.

**AFFIRMATIVE DEFENSES**

1. Defendant Officers John Frano, Steven Laureto, Michael Napoli, and Vincent Fico are government officials, namely police officers, who perform discretionary functions. At all times material to the events alleged in Plaintiffs' Complaint, a reasonable police officer objectively viewing the facts and circumstances that confronted Defendant Officers could have believed their actions to be lawful, in light of clearly established law and information that Defendant Officers possessed. Therefore, Defendant Officers are entitled to qualified immunity as to Plaintiffs' federal claims.

2. To the extent Plaintiff failed to mitigate any of his claimed injuries or damages, any verdict or judgment obtained by Plaintiff must be reduced by application of the principle that Plaintiff had a duty to mitigate his claimed injuries and damages, commensurate with the degree of failure to mitigate attributed to Plaintiff by the jury in this case.

**JURY DEMAND**

Defendant Officers John Frano, Steven Laureto, Michael Napoli, and Vincent Fico hereby demand a jury trial.

Dated: August 25, 2008

Respectfully submitted,

/s/ Gail L. Reich

GAIL L. REICH

Assistant Corporation Counsel

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